REMARKS/ARGUMENTS

Claims 1-43 are pending in the present application. In the Office Action mailed December 23, 2004, the Examiner rejected claims 1-43 under 35 U.S.C. § 102. The examiner also rejected claims 9, 10, 23, 24, 37 and 38 under 35 U.S.C. § 103.

Claims 1, 4, 16, 30, and 33 have been amended, and Claims 3 and 32 have been canceled. Reconsideration is respectfully requested in view of the above amendments to the claims and the following remarks.

A.   Claims 1-43 Rejected Under 35 U.S.C. § 102(e)

The Examiner rejected claims 1-43 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,226,665 to Deo et al. (hereinafter, "Deo"). This rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that claims 1- 43, as amended, are patentably distinct from Deo, and that the cited reference does not disclose all the limitations of these claims.

In particular, Deo fails to teach a user-configurable loading table that controls which individual software components are loaded into volatile memory. Claims 1-43 of the present application (the "Application"), either directly or by dependency, each require a loading table "that is configurable by a user." See, e.g., Application, claim 1. The loading table controls which "individual software components" are loaded into volatile memory (e.g., RAM).

Deo, in contrast, teaches that an operating system, not a user, controls which individual software components (e.g., variables and an event handler) of a software application are loaded into RAM. Deo, col. 2, lines 46-64. In particular, Deo teaches that:

> An operating system kernel specifies an order in which the variables are loaded into the RAM during execution of the software application by the processor. The kernel thus ensures that required software components are loaded when needed, but that the storage capacity of the RAM is not exceeded.

Deo, col. 3, lines 18-23; *see also* col. 2, lines 59-62 ("In response to either a change in the state of the system or a new event, another software component is loaded into the RAM for execution by the processor."). The operating system, not the user, controls which individual software components of the application are loaded in response to initiation of an application. The user has no control over, and may not even be aware of, the loading of individual software components, such as variables or event handlers. In addition, the user has no ability to configure (and thus save) a loading table and, as a result, cannot control, when a program is initiated *in the future*, which individual software components will be loaded. Accordingly, Deo teaches precisely the opposite of user control of which "individual software components" of an application are loaded into volatile memory.

In view of the foregoing, Applicants respectfully submit that claims 1-43 are patentably distinct from Deo. Applicants thus respectfully request that the rejection of these claims be withdrawn.

B.   Rejection of Claims 9, 10, 23, 24, 37 and 38 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 9, 10, 23, 24, 37 and 38 under 35 U.S.C. § 103(a) based on Deo in view of U.S. Patent No. 5,970,252 to Buxton et al. (hereinafter, "Buxton"). This rejection is respectfully traversed.

The M.P.E.P. states that:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference

teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Furthermore, teaching away from an applicant's invention demonstrates a lack of prima facie obviousness. *McGinley v. Franklin Sports*, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001); *In re Fine*, 837 F.2d, 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). A reference teaches away from a claimed invention when the reference leads its reader "in a direction divergent from the path that was taken by the applicant." *Tec Air, Inc. v. Denso Mfg. Mich. Inc.,* 52 USPQ2d 1294, 1298 (Fed. Cir. 1999).

Neither Deo nor Buxton teach the claimed invention. As noted above, Deo fails to teach an embedded system having a loading table, configurable by user, to control the loading of individual software components.

Buxton teaches an object-oriented programming system for use with a conventional personal computer to "construct larger applications in a modular fashion." Buxton, col. 2, lines 6-7. Buxton never teaches that the disclosed invention could be used with an embedded system to "reduce volatile memory usage." *See, e.g.,* Application, claim 1.

Furthermore, Deo and Buxton cannot properly be combined to teach the limitations of the claimed invention. As indicated above, Buxton does not teach that the claimed invention may be
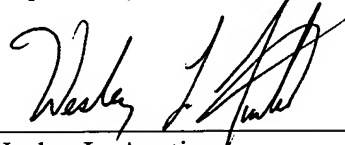
used with an embedded system. In fact, Buxton teaches away from such usage, stating that, "[i]n the evolution of data processing systems," there is a move away from "proprietary hardware architectures" (*e.g.,* embedded systems). Buxton, col. 1, lines 33-37. Accordingly, Buxton leads the reader in a direction divergent from use of the disclosed invention with <u>an embedded system</u>.

In view of the foregoing, Applicants submit that Deo and for Buxton cannot properly be combined to teach or suggest all of the limitations in claims 9, 10, 23, 24, 37 and 38. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

C.   Conclusion

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

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